



HON. SYLVIA O. HINDS-RADIX
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, N.Y. 10007

BRIAN FRANCOLLA
Senior Counsel
phone: (212) 356-3527
fax: (212) 356-3509
bfrancol@law.nyc.gov

BY ECF

Honorable Jennifer E. Willis
United States Magistrate Judge
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

October 4, 2022

Re: Abdelrahman Hassab el Nabi v. City of New York, et al., 21 Civ. 3768 (LAK)

Your Honor:

I am a Senior Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney assigned to represent defendants in this matter. In that capacity, I write in advance of the parties' October 11, 2022 settlement conference to respectfully request a slight modification of the Court's Standing Order For All Cases Referred For Settlement. To the extent the Court requires the attendance of the parties, I am mindful that a previous request from my Office seeking to excuse the individual defendants from complying with that requirement resulted in a modification that the Court expected them to appear for the first 30 minutes of the conference. See Gilliam, et al., v. City of New York, et al., 21 CV 5775 (RA), Docket Entry #67. For largely the same reasons, defendants herein respectfully request the same modification.

Defense counsel has made arrangements for one of the individual defendants, Detective Stephen Centore, to be present in person for as long as the Court requires. However, regarding the additional two defendants, Sergeant Matthew Tocco and Deputy Inspector Elias Nikas, defendants request an additional modification to the Court's attendance requirement such that they both be permitted to call in by telephone. The reason for this request is that the conference is scheduled to take place outside of their respective tours of duty and due to the specifics of their respective tours, I am unable to reschedule their assignments. Specifically, Sergeant Tocco is currently enrolled in Emergency Service Unit Training School with daily sessions running from 4:00 p.m. until Midnight – training that he is not permitted to miss. In addition, the training at issue is quite intense such that we have concerns about having him appear in person on the morning of a scheduled training day which would result in him basically having to work a double shift. If he were permitted to appear by telephone it would be greatly appreciated. Similarly, Deputy Inspector Nikas is scheduled to work the Columbus Day parade on October 10, 2022, from 9:00 a.m. until 9:00 p.m. with his next tour not set to begin until October 11, 2022, at 4:00 p.m.

Accordingly, we have the same concerns regarding him having to begin a tour so soon after his previous one – particularly considering that the prior tour involves him working a particularly long shift on a parade detail. He similarly would greatly appreciate the ability to call in rather than appear in person under these specific circumstances. I have conferred with plaintiff's counsel, Tahanie Aboushi, Esq., and she does not object to the instant proposal.

Last, defendants respectfully request that the Court endorse the attached proposed order permitting the undersigned the ability to enter the Courthouse on the date of the settlement conference with two cellular phones and a laptop – the former so that I can communicate with the relevant decision makers from my Office and the Office of the Comptroller if need be and the latter in the event any issues arise where it is necessary to review or show video footage relevant to the underlying incident during the conference.

Defendants thank the Court for its consideration herein.

Respectfully submitted,

/s/

Brian Francolla
Senior Counsel
Special Federal Litigation Division

cc: all counsel of record